

***United States Court of Appeals
for the Second Circuit***



APPENDIX

ORIGINAL
WITH PROOF
OF SERVICE

76-1418

UNITED STATES COURT OF APPEALS

for the

SECOND CIRCUIT

UNITED STATES OF AMERICA,

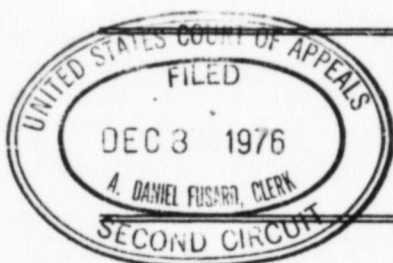
Plaintiff-Appellee,

v.

EDMUND WOLK,

Defendant-Appellant.

ON APPEAL FROM A JUDGMENT OF CONVICTION
OF THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK



APPENDIX

EDMUND WOLK
Defendant-Appellant Pro Se
25 West 43rd Street
New York, N. Y. 10036
(212) 354-9120

ROBERT B. FISKE, JR.
United States Attorney
Attorney for Plaintiff-Appellee
One St. Andrews Plaza
New York, N. Y. 10007

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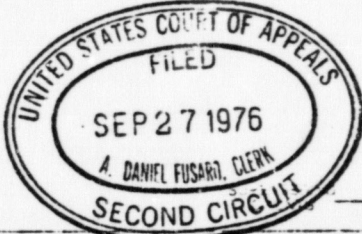
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OFFENSE NO. 0839
OFFENSE NO. 0208
ASSIGNED

DOCKET ENTRY
WOLK, EDMUND
A-1

04 02 / 76 0314 01

TITLE SECTION 26:7203
OFFENSES CHARGED Failure to file income tax return.
ORIGINAL COUNTS 1-4



II. KEY DATES & INTERVALS

| ARREST | INDICTMENT | ARRAIGNMENT | TRIAL | SENTENCE |
|------------------------------|--|--------------------|--|----------------------|
| U.S. Custody Began 4-2-76 | High Pay Date Information X 4-2-76 | 04-22-76 7-7-76 | 04-22-76 7-7-76 7-7-76 7-9-76 | 7-9-76 8-30-76 |
| Community Servant | Indict. Waived | First Plea | Verdict | Convicted |
| First Appearance | Superseding Indict/Info | | | On All Charges |
| | In Charging District | | | On Lesser Offenses |
| | | | | Dismissed |
| | | | | On Government Motion |

| DATE | INITIAL/NO | WAG STATE | INITIAL | OUTCOME |
|-----------------------|------------|--|---------|---|
| Subpoena Issued | | INITIAL APPEARANCE DATE | | DISMISSED |
| Warrant Return | | PRELIMINARY EXAMINATION OR REMOVAL HEARING | | HELD FOR GOV. OR OTHER PROCEEDING IN DISTRICT |
| Summons Issued | | NOTED | | HELD FOR GOV. OR OTHER PROCEEDING IN DISTRICT BELOW |
| Summons Served | | NOT NOTED | | |
| Arrest Warrant Issued | | INTERVENING INDICTMENT | | |
| Complaint | | | | |
| Offense | | | | |

Attorneys: Richard Weinberg 791-0039
Mortimer Todel, Esq. 1 Rockefeller Plaza New York, N.Y.

| DATE | (DOCUMENT NO.) | PROCEEDINGS | EXCLUDABLE DELAY |
|----------|----------------|---|------------------|
| 4-2-76 | | Filed information. | |
| 4-15-76 | | Pleading adjourned to 4-22-76...Lasker, J. | |
| 4-22-76 | | Deft. present (Atty. present) enters a not guilty plea. 20 days for motions. Deft. Ordered F/P. Deft. R.O.R. Assigned to Bonsal, J...Brieant, J. | |
| 04-26-76 | | Filed notice of appearance of atty-Mortimer Todel, Esq. (see above) | |
| 06-17-76 | | Pre-trial hearing held. 7-7-76 set for trial. Bonsal, J. | |
| 06-04-76 | | Filed Govt.'s notice of readiness for trial. | |
| 06-30-76 | | Filed Govt.'s proposed voir dire examination of prospective jurors. | |
| 07-07-76 | | Jury empanalled trial begun. Bonsal, J. | |
| 07-08-76 | | Trial cont'd. | |
| 07-09-76 | | Trial cont'd. and concluded. Jury verdict deft. guilty ct. 1, 2, 3, & 4. 8-30-76 set for sentence. Pre-sentence report ordered. Deft. R.O.R. Bonsal, J. | |

BEST COPY AVAILABLE

DOCKET ENTRY

07-19-76 Filed Govt's requests to charge. A-2
 07-19-76 Filed deft's preliminary requests to charge.
 08-09-76 Filed deft's notice of motion re: order setting aside
 the verdict and entering a judgment of acquittal, etc.
 ret: 8-30-76.
 08-13-76 Filed Govt's affdvt. re: opposition to deft's motion
 to set aside the verdict.
 08-30-76 Filed Judgment # 76-815 - (atty. Mortimer Todel)
 Cts. 1,2,3 and 4- 1 yrs. impr. ea. ct. conc.
 E.S.S. 2 yrs. prob. & super. FINED \$2,000. on ea.
 of cts. 1,2,3 & 4, TOTAL FINE \$8,000. non-committed
 Deft. given 6 mos. to pay fine. Bonsal, J. issued all
 copies.
 08-31-76 Filed memo-end. on motion docketed 8-9-76. Motion
 denied. Bonsal, J. m/n
 09-08-76 Filed deft's notice of appeal from judgment of
 8-30-76. Mailed copies.
 9-9-76 Filed transcript of record of proceedings, dated July 7, 8, 9
Aug 30, 1976.

A TRUE COPY
 G. E. Thompson, Clerk
 Deputy Clerk

B

FINE AND RESTITUTION PAYMENTS

| RECEIPT NUMBER | C.D. NUMBER | DATE | RECEIPT NUMBER | C.D. NUMBER |
|----------------|-------------|------|----------------|-------------|
| | | | | |
| | | | | |
| | | | | |

INFORMATION

A-3

RW:cmw

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA

-v-

EDMUND WOLK,

Defendant.

INFORMATION

76 Cr.

COUNTS ONE THROUGH FOUR

The United States Attorney charges:

1. During the calendar years set forth below in Counts One through Four EDMUND WOLK, the defendant, who was then a resident of and conducted business in the Southern District of New York, had and received a gross income in the approximate amounts set forth below.

2. By reason of this income EDMUND WOLK, the defendant, was required by law following the close of the said calendar years and on or before April 15th of the following calendar year an income tax return to the District Director of Internal Revenue for the Internal Revenue District of Manhattan or other proper officer of the United States, stating specifically the items of his gross income and any deductions and credits to which he was entitled.

3. On or about April 15th of the years following the calendar years set forth below, in the Southern District of New York EDMUND WOLK, the defendant, knowing all of the foregoing facts, unlawfully, wilfully and knowingly did fail to make said income tax returns to said District Director of Internal Revenue or any other proper officer of the United States.

INFORMATION

A-4

| <u>COURT</u> | <u>CALENDAR YEAR</u> | <u>APPROXIMATE GROSS INCOME</u> |
|--------------|----------------------|---------------------------------|
| 1 | 1969 | \$ 37,620 |
| 2 | 1970 | \$ 44,572 |
| 3 | 1971 | \$ 69,542.53 |
| 4 | 1972 | \$ 63,512.27 |

(Title 26, United States Code, Section 7203.)

Robert B. Fiske Jr.
ROBERT B. FISKE, JR.
United States Attorney

cmds

DeGennaro - direct

16

Exhibit 1 in Evidence, would you please tell the Court and jury what the Social Security number that was given for Edmund Wolk is on that, please?

A The Social Security number used on this return was 131-2494-146.

Q Have you, at my request, reviewed your records with respect to tax returns for the years 1969, 1970, 1971 and 1972?

A Yes, I have.

Q Have you reviewed those records, and what has your review revealed?

A There were no returns filed for the years mentioned.

Q Have you also reviewed your records with respect to the years 1970, '71 and '72 with respect to whether the defendant asked for any extensions?

A Yes.

Q Would you please tell this Court and jury what your review revealed?

A There were extensions filed for in those years, but there were no returns filed.

Q From the year 1972 forward, have you reviewed your records with respect to any tax returns that were filed for Edmund F. Wolk with the Social Security No. 131-24-9146?

cmds

DeGennaro - direct

17

1

2

A Yes.

3

Q What did your review indicate?

4

A There were no returns filed under that number

5

after 1972.

6

Q Fine.

7

Now, did there come a time when you reviewed the re-

8

turns for 1973 for Edmund F. Wolk?

9

A Yes.

10

Q And what --

11

MR. TODEL: Objection, your Honor, as outside the

12

scope of the --

13

MR. BATCHELDER: It goes to willfulness, your

14

Honor.

15

THE COURT: Well, yes. If his records indicate

16

there was no return filed he can't answer it.

17

Q Would you please tell this Court and jury what

18

the result of your review indicates, please?

19

A The 1973 return?

20

Q Yes.

21

A The 1973 return was filed under a different

22

Social Security number.

23

Q What was that number, please?

24

A 131-96-9364.

25

Q Was that the same Social Security -- the same

cmds

DeGennaro - direct

18

Edmund F. Wolk? Was there a different address also?

A Yes.

Q Did your review also indicate that the taxes had been paid for the years 1973, '74 and '75?

MR. TODEL: Objection, your Honor. Objection, your Honor.

MR. BATCHELDER: Willfulness, your Honor.

MR. TODEL: Objection.

THE COURT: Well, I think I will sustain the objection to the form of that question. There is nothing in your record which indicates the taxes were not paid for 1973, '74 and '75?

THE WITNESS: I was merely researching for whether or not a return was filed.

THE COURT: So you don't know. All right.

Q Had the return been filed?

A '73, '74 and '75, yes.

Q I show you what has been marked as Government's Exhibit 2 for Identification and ask if you can recognize that, please (handing)?

A Yes. This is a letter in which -- the transmittal letter in which the estate tax return of Frank Wolk was submitted to us.

Q That was submitted by whom?

1 cmds

DeGennaro - direct

19

2 A The executors, Edmund F. Wolk and Bruce Wolk,
3 both signed the return.

4 Q Is an estate tax return, are those documents
5 also kept in your center?

6 A Yes, they are.

7 Q Are they kept in the ordinary course of business

8 A Yes.

9 Q Is it your business practice to have these
10 placed on microfilm and then reproduced?

11 A Yes, sir.

12 Q I ask you, I notice that there are what appear
13 to be letters, five pages of letters prior to the return.
14 Is it your practice to keep these in the ordinary course of
15 business also?

16 A Yes, we keep them with the case file with the
17 return.

18 Q And it all becomes part of the same file, does
19 it not?

20 A Yes.

21 MR. BATCHELDER: Your Honor, the government would
22 move into evidence what has been marked as Government's
23 Exhibit 2 for Identification.

24 MR. TODEL: I object at this time, your Honor.
25 There is no foundation for this. I have no objection if

1 cmds

DeGennaro - direct

20

2 there is a foundation laid for the introduction of this.

3 MR. BATCHELER: Your Honor, it is a business
4 record and the foundation will, subject to connection --

5 THE COURT: I will take it subject to connection
6 and we will see about that. All right.

XX 7 (Government's Exhibit 2 received in Evidence.)

8 Q Prior to coming here and testifying today, did
9 you review your records at my request and did you review
10 the testimony you were going to give here?

11 A Yes.

12 MR. BATCHELDER: I have no further questions
13 of this witness, your Honor.

14 THE COURT: May I see counsel for one minute at
15 the side bar.

16 (At the side bar.)

17 THE COURT: I just want to check about the 3500
18 material.

19 MR. BATCHELDER: It has all been turned over,
20 your Honor.

21 MR. TODEL: Yes, sir.

22 THE COURT: All right.

23 (In open court.)

24 THE COURT: Mr. Todel, do you have any questions
25 of the witness?

1 cmds DeGennaro - cross

21

2 MR. TODEL: Yes, your Honor.

3 THE COURT: You may proceed.

B4 4 CROSS-EXAMINATION

5 BY MR. TODEL:

6 Q Mr. DeGennaro, you mentioned that there were
7 extensions filed by Mr. Wolk for a number of years; is that
8 correct?

9 A Yes, sir.

10 Q Were these extensions filed with your office --
11 do you have them here today?

12 A No, I don't.

13 Q You stated that there were two different Social
14 Security numbers; is that correct?

15 A Yes.

16 Q What was on the first return, the 1968 return?

17 A The 1968 return as 131-24-9146.

18 Q And the Social Security number which was filed
19 in 1973 --

20 A Yes, sir.

21 Q -- what was that?

22 A 131-96-9264.

23 Q Mr. Batchelder stated that the tax returns which
24 were filed in 1973 and '74 and '75 had a different address;
25 is that correct?

1 cmds DeGennaro - cross/redirect 22

2 A Yes, sir.

3 Q In fact, it had an address of 3850 Hudson Manner
4 Terrace?

5 A Yes, sir.

6 MR. TODEL: No further questions.

7 MR. BATCHELDER: Just one, your Honor.

8 REDIRECT EXAMINATION

9 BY MR. BATCHELDER:

10 Q That changed Social Security number of 131-96-9364
11 was that on the '74 and '75 returns also?

12 A Yes, it was.

13 MR. BATCHELDER: No further questions.

14 THE COURT: All right. Thank you, sir, you are
15 excused.

16 (Witness excused)

17 MR. BATCHELDER: The government would call as
18 its next witness Raymond Meyer.

19 R A Y M O N D M E Y E R, called as a witness
20 on behalf of the government, being first duly sworn,
21 testified as follows:

22 MR. BATCHELDER: May I proceed, your Honor?

23 THE COURT: Please do.
24
25

1 cmds

West - cross

62

2 of the payroll tax reports, the federal, state, and I believe
3 the City of New York, the unemployment insurance reports.
4 I would handle the billing of clients, the dunning of clients
5 if you please, and the notating of when bills were paid by
6 clients.

7 I would also keep the records as effect disbursements,
8 as effects specific cases. I also was the librarian for
9 that matter.

10 Q Mr. Wolk did not handle that type of thing?

11 A No, we decided early on that that would be my
12 responsibility.

13 Q What type of administrator was he?

14 A He wasn't an administrator. He was, if anything,
15 the worst administrator of paper work.

B9 16 Q Mr. West, you mentioned that you used to take
17 care of the billing when you were in the practice; is that
18 correct?

19 A Yes, sir.

20 Q Then you started working with the firm of
21 Charles H. Greenthal, which is a fairly large real estate
22 firm. And Mr. Wolk had done business, or did legal services
23 for Charles H. Greenthal; is that correct?

24 A That is correct.

25 Q To your knowledge, do you know whether or not

cmds

Nieves - direct

64

(Witness excused.)

MR. BATCHELDER: Your Honor, the government would call as its next witness Mr. Nieves.

E F R A I M N I E V E S, called as a witness on behalf of the government, being first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. BATCHELDER:

Q Mr. Nieves, may we have your occupation, please?

A I work for Manufacturers Hanover Trust Company as a branch operation assistant.

Q Would you please tell us what your duties are?

A My duties are at the bank investigation of statements, photostating everything, things come to the bank, going out to the bank.

Q In the course of your duties are you familiar with the record keeping operations of the bank with respect to accounts?

A Yes.

Q In the course of your duties have you had occasion to reproduce certain records of certain accounts which reflect transactions in those accounts?

A Yes.

Q I show you what has been marked as Government's

cmds

Nieves - direct

65

Exhibits 26, 27, 28 and 29 for Identification --

MR. TODEL: May I approach the bench, your Honor.

THE COURT: Surely.

(At the side bar.)

MR. TODEL: If the Court pleases, these are statements of an account that Mr. Wolk had at the Manufacture Hanover Bank. I don't understand the purpose of this other than it is a highly prejudicial type of introduction merely showing certain deposits in there.

In the practice of law many deposits are made which are not actually income, and --

THE COURT: Well, is this a trust account, or is this a personal account?

MR. BATCHELDER: It is his personal account.

MR. TODEL: It is a business account.

THE COURT: It is on a trust account?

MR. TODEL: It is on a trust account. And I think in this particular case, your Honor, there has been sufficient evidence with reference to the income that he has obtained in terms of failing to file, and even in the 3500 material which was turned over to me the government, in its criminal reference report, refers to a specific amount which is being considered here with reference to income, and they suddenly show an account which has deposits in there which

1 cmds

Nieves - direct

66

2 would be highly prejudicial --

3 THE COURT: What do you have to say?

4 MR. BATCHELDER: Your Honor, Mr. Todel's argu-
5 ment appears to be that his client didn't know what was
6 going on during these years. There was some crisis. The
7 government will show that these records as a result of an
8 interview with Special Agent Cappacio, he indicated that
9 he deposited all his income items in these accounts, your
10 Honor, and there is one other one, Bankers Trust, and that
11 these were items of gro. income.

12 With respect to that, your Honor, the government
13 will show that starting at the time of the great psychologica
14 crisis of 1968 on up that the deposits in his account rose,
15 they did not fall, did not do anything else, they are items
16 of gross income, your Honor.

17 Now the government sure, as Mr. Todel says, only
18 has to prove \$1200, but the government will show that with
19 respect to willfulness and knowledge here is a man who is
20 running accounts of \$60,000 --

21 THE COURT: Is that ingo, outgo? ..

22 MR. BATCHELDER: Ingo and outgo.. And at the
23 time he turns around and files supposed scheduled income
24 tax returns which indicates there is only \$30,000 or \$40,000
25 in those accounts, and that simply is not so, your Honor,

1 cmds

Nieves - direct

67

2 and this goes to the idea of willfulness. It shows that fa
3 from being the person that Mr. Todel would have us believe,
4 this man is fairly sophisticated, indeed, to handle these
5 sums of money.

6 THE COURT: I don't know whether sophistication

7 MR. BATCHELDER: Well, your Honor, I mean --

8 THE COURT: I do think it is relevant on the
9 issue of willfulness. Most of this seems to be checks drawn
10 on the account. I think I will receive them, but I really
11 think the only thing of importance so far as this trial is
12 concerned is that there were deposits made here in the years
13 in these amounts. I think the rest of it, whether he paid
14 \$2 to his tailor -- but, I will receive it and perhaps we
15 can cut that down.

16 MR. TODEL: I respectfully object, your Honor.

17 THE COURT: All right, you have an objection.

18 (In open court.)

19 BY MR. BATCHELDER:

20 Q I show you Government's Exhibits 26, 27, 28 and
21 29 and ask if you can recognize those, please (handing)?

22 A Yes, this is the statements of the Manufacturers
23 Hanover that was sent out to a customer.

24 Q Would you please identify which statement per-
25 tains to what years, please, if you are able to?

A-17

1 cmds

Nieves - direct

68

2 A These statements for the year 1969, this first
3 one --

4 THE COURT: What exhibit number is that?

5 THE WITNESS: 26.

6 MR. BATCHELDER: 26, your Honor.

7 THE COURT: That is 1969. All right.

8 THE WITNESS: Right. All this is 1969.

9 Q Would you please look at what has been marked
10 Government's Exhibit 27 now, and can you identify for what
11 year that is?

12 A Exhibit 27 is for the year 1970. All 1970.

13 Q And the next one, please, Exhibit 28, I believe?

14 A Exhibit 28 is all 1971.

15 Q And Exhibit No.29?

16 A No.29 is 1972.

17 Q Now, are these in the name of West & Wolk?

18 A Yes, they are.

19 Q Do these records reflect deposits as well as
20 withdrawals?

21 A Yes.

22 MR. BATCHELDER: Your Honor, the government at
23 this time would offer into evidence Government's Exhibits
24 26, 27, 28 and 29 which have been marked subject to identi-
25 fication.

1 cmds

aves - direct

69

2 THE COURT: You have seen them?

3 MR. TODEL: Yes, except there is one thing I
4 would like to --

5 THE COURT: Surely.

6 MR. TODEL: May I just question on the voir dire,
7 your Honor?

8 THE COURT: Yes.

9 VOIR DIRE EXAMINATION

10 BY MR. TODEL:

11 Q Mr. Nieves, I show you Government's Exhibit 29
12 and I notice that there is a -- there are some figures on
13 the side here that seem to be typed out. Are those prepared
14 by your? These figures here attached?

15 A These figures?

16 Q Yes. Are these prepared by the bank?

17 THE COURT: You mean the dates?

18 MR. TODEL: Dates.

19 A No, they are not.

20 MR. TODEL: If the Court pleases, I have no
21 objection to the introduction of the exhibits, except the
22 tapes should be removed.

23 THE COURT: I think that is right.

24 MR. BATCHELDER: Your Honor, the government has
25 no objection.

1 cmds

Nieves - direct

70

2 THE COURT: I think that is right.

3 MR. BATCHELDER: Subject to connection, your
4 Honor, if we are allowed to --

5 THE COURT: All right. Maybe at a later time.

6 MR. BATCHELDER: Yes.

B10 7 THE COURT: You can offer them at a later time,
8 but I will receive the exhibits. I think I mentioned to
9 you gentlemen it is the deposits I think that are relevant
10 rather than anything else.

11 MR. TODEL: Yes.

12 MR. BATCHELDER: Yes.

xx 13 (Government's Exhibits 26, 27, 28 and 29 received
14 in Evidence.)15 MR. BATCHELDER: I have no further questions of
16 this witness, your Honor.

17 MR. TODEL: No questions, your Honor.

18 THE COURT: No questions. All right, thank you,
19 Mr. Nieves, you are excused.

20 (Witness excused.)

21 MR. BATCHELDER: Your Honor, the government
22 would call Miss Marrantino.

23

24

25

1 cmds

Marrantino - direct

73

2 THE COURT: Yes. Have you seen those?

3 MR. TODEL: I haven't seen those yet, your Honor.

4 THE COURT: All right. Take a look at them.

5 I will receive Exhibit 30, and you have an excep-
6 tion.

xx 7 (Government's Exhibit 30 received in Evidence.)

8 MR. BATCHELDER: I have no further questions of
9 this witness, your Honor.

10 MR. TODEL: No questions, your Honor.

11 THE COURT: All right, thank you.

12 (Witness excused.)

13 MR. BATCHELDER: Your Honor, the government would
14 call at this time Regina Yoa.

15 R E G I N A Y O A, called as a witness

16 on behalf of the government, being first duly sworn,
17 testified as follows:

18 MR. BATCHELDER: May I proceed, your Honor?

19 THE COURT: You may.

20 DIRECT EXAMINATION

21 BY MR. BATCHELDER:

22 Q Miss Yoa, can we have your occupation, please?

23 A I am a para-legal with Merrill, Lynch.

24 Q Can you please tell this Court and jury briefly
25 what your duties as a para-legal are?

1 cmds

Sladkus - direct

179

2 H A R V E Y I. S L A D K U S, called as a witne

3 on behalf of the defendant, being first duly sworn,
4 testified as follows:

5 THE COURT: You may proceed.

6 DIRECT EXAMINATION

7 BY MR. TODEL:

8 Q Mr. Sladkus, are you appearing pursuant to a
9 subpoena?

10 A I am, sir.

11 Q Are you an attorney licensed to practice in the
12 State of New York?

13 A Yes, sir.

14 Q How long have you been an attorney here in the
15 State of New York?16 A Fourteen years. I was admitted in April of 1962
17 in the Second Judicial Department of the Appellate Division.

18 Q Are you a partner in a law firm?

19 A I am, sir.

20 Q What is the name of the law firm?

21 A The firm is Ploscowe, Dweck & Sladkus.

22 Q Mr. Sladkus, do you know Mr. Edmund Wolk?

23 A I do, sir.

24 Q How long have you known Mr. Wolk?

25 A Between six and seven years, sir.

cmds

Sladkus - direct

180

1 Q During the course of your contact with Mr. Wolk,
2 were you adversaries, or attorneys representing different
3 parties?
4

5 A Yes, sir.

6 Q Was he a competent lawyer?

7 A In my judgment, very competent.

8 Q Did there come a time, Mr. Sladkus, that you
9 represented Mr. Wolk personally?

10 A Yes, sir.

11 MR. BATCHELDER: Your Honor, may we approach the
12 bench on this?

13 THE COURT: All right.

14 (At the side bar.)

15 MR. BATCHELDER: Your Honor, the government would
16 like an offer of proof on this. I can see where it's going
17 right now.

18 THE COURT: Well, what is the --

19 MR. TODEL: The offer of proof is, number one,
20 that Mr. Sladkus will introduce into evidence a signed
21 separation agreement --

22 THE COURT: Oh, no. No.

23 MR. TODEL: If the Court pleases --

24 THE COURT: No, no, no.

25 MR. TODEL: If the Court pleases, or, if you do

1 cmds

Sladkus - direct

181

2 not want the signed separation agreement, he will testify
3 with reference to a particular clause which deals --

4 THE COURT: What clause?

5 MR. TODEL: Which deals with the filing of income
6 tax returns which --

7 THE COURT: When was the separation agreement
8 dated?

9 MR. TODEL: In 1972, which referred to prior
10 years that the tax returns had not been filed and that his
11 wife was to join in the signing of these tax returns.

12 MR. BATCHELDER: No, that's of no relevance, your
13 Honor. He can file either individually or on joint returns.
14 He didn't file any returns.

15 MR. TODEL: This goes to the question of willful-
16 ness.

17 MR. BATCHELDER: How could it --

18 THE COURT: Wait a minute. What he said in 1972--
19 when was the government investigation? When did it start?

20 MR. BATCHELDER: It started in '74, your Honor.

21 THE COURT: 1974?

22 MR. BATCHELDER: Sure.

23 THE COURT: Again, it is an admission he didn't
24 file the tax returns.

25 MR. TODEL: I understand that.

cmds

Sladkus - direct

182

1 THE COURT: By the way, is this fellow going
2 to take the stand?

3 MR. TODEL: Yes, he will.

4 THE COURT: I think we had better let that go.
5 Let him talk about this rather than have this lawyer do it.
6 I really think this is all secondhand, and I certainly don't
7 want to get the separation agreement in.

8 MR. TODEL: Except that it is a statement on
9 his part --

10 THE COURT: On whose part?

11 MR. TODEL: On the part of the defendant, a signed
12 agreement to the effect that the tax returns had not been
13 filed.

14 THE COURT: Well, he can testify to that. He can
15 testify to that. It's better than coming from this fellow.

16 All right.

17 (In open court.)

18 THE COURT: Proceed.

19 BY MR. TODEL:

20 Q Mr. Sladkus, the firm that you are connected
21 with, does it specialize in any type of law?

22 MR. BATCHELDER: Objection, your Honor.

23 THE COURT: I will let him answer that. I would
24 be interested in that, too. What do you specialize in?
25

1 cmds

Sladkus - direct

183

2 THE WITNESS: Well, my deceased senior partner

3 THE COURT: No. What do you --

4 THE WITNESS: I specialize in appellate work
5 and matrimonial law. I personally.

B24

6 THE COURT: Your senior partner was once a
7 magistrate, then a judge, I think; is that correct?

8 THE WITNESS: That's correct.

9 Q Mr. Sladkus, have you lectured --

10 THE COURT: I am going to sustain the objection
11 to that. I'm not interested in that. I'm sure he has.

12 A I have.

13 Q In the years that you have been practicing
14 matrimonial law have you had many cases?

15 A Hundreds, sir.

16 Q With reference to this specific case --

17 THE COURT: I am going to sustain the objection.
18 If I know what your question is, I am going to sustain the
19 objection.

20 MR. TODEL: If the Court pleases --

21 MR. BATCHELDER: May we not have the speeches.

22 MR. TODEL: May I make an offer of proof?

23 THE COURT: Come up to the side bar.

24 (At the side bar.)

25 THE COURT: You want him to say this was a tough

1 cmds

Sladkus - direct

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2 case?

3 MR. TODEL: No, I want him to say, and he will
4 testify, that in the cases that he has handled this is the
5 only case, other than one other many years ago, in which a
6 father obtained custody of --

7 MR. BATCHELDER: Oh, come on!

8 THE COURT: No, no. I sustain the objection.

9 (In open court.)

10 Q Mr. Sladkus, when Mr. Wolk came to see you for
11 him to have you represent him, what did you observe about
12 him from the time that you had seen him when you appeared
13 as adversaries?

14 MR. BATCHELDER: When was this, your Honor?

15 THE COURT: One thing I would like to clear up
16 on that. I gather you represented Mr. Wolk in connection
17 with his personal problems; is that right?

18 THE WITNESS: That's correct, your Honor.

19 THE COURT: When did you commence to represent
20 him?

21 THE WITNESS: The latter part of 1971, your
22 Honor.

23 THE COURT: The latter part of 1971?

24 THE WITNESS: Yes, sir.

25 THE COURT: All right. We have got a date.

1 cmds

Sladkus - direct

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2 Now the question is, when you began to represent him was
3 there anything you noticed particularly about Mr. Wolk that
4 you wanted to testify about?

5 THE WITNESS: Yes, sir. Well, I don't know if
6 actions would fall within the confidential --

7 THE COURT: I don't want you to do that.

8 THE WITNESS: -- privilege, unless it is waived
9 by Mr. Wolk.

10 THE COURT: I won't get into that. How did he
11 look to you?

12 THE WITNESS: Like any other client who had a
13 serious matrimonial problem.

14 THE COURT: All right. That is the answer.

15 THE WITNESS: He was agitated, he was worried.
16 Most nervous.

17 BY MR. TODEL:

18 Q Was he most nervous about what specifically?

19 MR. BATCHELDER: Objection.

20 THE COURT: No, we are getting into -- I take it
21 what you are saying is that when people come to you with a
22 matrimonial case it is probably your experience they are
23 always worried.

24 THE WITNESS: Yes, sir.

25 THE COURT: And you noticed that about this

1 cmds

Sladkus - direct

186

2 gentleman.

3 THE WITNESS: If I may say so, your Honor, I
4 would be most candid that Mr. Wolk was particularly more
5 nervous than most, not because of his matrimonial situation -

6 THE COURT: Well, don't go into that.

7 THE WITNESS: Yes, sir.

8 Q Mr. Sladkus, prior to your coming here, Mr. Wolk
9 advised you that he would waive any privilege between you
10 as his attorney and himself --

11 THE COURT: It doesn't really matter. I'm not
12 going to get all of this whether he waives it or not.

13 Q Mr. Sladkus, at my request did you bring --

14 MR. BATCHELDER: Your Honor --

15 THE COURT: I will have the question. Did he
16 bring what?

17 MR. TODEL: A document here which I would like --

18 THE COURT: Is that the document we were talking
19 about?

20 MR. TODEL: Yes.

21 THE COURT: No, no. I assume you brought it.
22 I think you gentlemen stipulated it was a document --

23 MR. TODEL: May I have the document marked for
24 identification?

25 THE COURT: Surely.

1 calls

Sladkus - direct

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2

THE WITNESS: I brought two documents, Mr. Todel

3

THE COURT: Have them both marked for identification, if you want.

4

xx

5

(Defendant's Exhibits D and E marked for Identification.)

6

7

Q Mr. Sladkus, I show you Defendant's Exhibit D marked for Identification (handing).

8

9

A Yes, sir.

10

Q And I ask you what this document is (handing)?

11

MR. BATCHELDER: Objection, your Honor. Can we approach the side bar?

12

13

THE COURT: Well, no. I know what it is and I have already ruled I am not going to receive it.

14

15

Q Mr. Sladkus, did you see Mr. Wolk on more than one occasion during the period of time that you represented him?

16

17

18

A Yes, sir.

19

Q Approximately how many, if you can recall?

20

A Two dozen times I would say.

21

Q Was there any discussion with reference to the filing of income tax returns?

22

23

MR. BATCHELDER: Objection. Hearsay, your Honor. Total hearsay.

24

25

THE COURT: Well, I'm just puzzled about this.

197

1 cmds

Wolk - direct

198

2 I was sitting in the courtroom.

3 Q I show you Defendant's Exhibit B marked for
4 Identification and ask you what that is (handing)?

5 A Well, this is a package of forms that were sent
6 to me by the Internal Revenue Service at my office address,
7 and the number indicated on the form here --

8 THE COURT: Wait a minute. Just tell us first
9 of all what that is. When did you see that?

B26 10 THE WITNESS: Frankly, it's for the 1975 U.S.
11 partnership return of income form, but it is addressed to
12 me individually, not West & Wolk, and I must have received
13 it sometime in the beginning of 1976. I received similar
14 ones beforehand.

15 MR. TODEL: At this time defendant offers in
16 evidence Defendant's Exhibit B.

17 MR. BATCHELDER: Objection as relevance.

18 THE COURT: I am going to sustain the objection.

19 MR. BATCHELDER: Your Honor, if it is a sus-
20 tained objection he is going to ask him about what is the
21 number, and the government will object again. At least that
22 is what he has been doing.

23 THE COURT: In fairness, I am not going to re-
24 ceived the exhibit, but if Mr. Wolk has any explanation of
25 the number -- you say you took down the number. What is the

1 cmds

Wolk - direct

199

2 number?

3 THE WITNESS: Well, last night when I went back
4 to the office --

5 THE COURT: No, no. Don't tell us about when
6 you went back to the office. Tell us about the number.

7 THE WITNESS: 131-969-364 was the number that
8 the gentleman from Brookhaven testified to. Not last night,
9 it was early this morning. I went into the office to see
10 how I could put that type of number down, and I found this
11 instrument, I had taken a number of an instrument that was
12 written to me indicating that it was addressed to me, and
13 I thought that was my Social Security number when I put it
14 down.

15 THE COURT: Well, what you're saying is that
16 you put down the number that had been on some form that you
17 might have received in the past?

18 THE WITNESS: Yes. And then that was for 1973.
19 In 1974 and 1975 I simply copied the one that was on the
20 previous return. So I didn't even --

21 THE COURT: All right.

22 MR. TODEL: If the Court please, --

23 THE COURT: No, I'm not going to receive it.
24 He explained that. I think what he is trying to explain is
25 the testimony yesterday about the different number, and you

cmds

Wolk - direct

200

say the second number you took off the form.

THE WITNESS: I thought that was the number I was supposed to use, because it was on a form addressed to me personally.

THE COURT: All right.

BY MR. TODEL:

Q Mr. Wolk, when did your partnership with Mr. West end?

A Well, it ended sometime in 1968, spring, early summer. Although there were from time to time -- Mr. West would on occasion come to the office. But for all intents and purposes, from a full-time basis, it ended someplace around May, I would guess, of 1968.

Q By the way, were you married at that time?

A Yes, I was married in August, August 11th, 1963.

Q Do you have any children?

A Yes, I have one son, Michael, who was born on July 17, 1966, and another son, Jason, who was born on February 16, 1970.

Q Did something happen in 1970?

A Yes.

Q Tell the Court and jury what occurred in that year.

A I didn't have the best marriage in the world

1 cmds

Wolk - direct

201

2 before 1970. It was a tolerable marriage at best, realistic
3 ly, but in 1970 my second son, Jason, was born in February
4 and my wife began to have extreme difficulties in her actions
5 at that time, and was very depressed.

6 At first I thought it was a post --

7 THE COURT: Not what you thought.

8 A She was very depressed at that time. She then
9 soon thereafter started to go to psychiatrists and seek
10 psychiatric help.

11 After that, as the time progressed, we used to have
12 fights once in a while, arguments like most married couples
13 I would assume, but after 1970 they started to increase not
14 only in how often they were, but they were starting to --
15 they were coming much more often -- they would last longer,
16 and the degrees would become much, much longer.

17 So that after a while I started to go, when I would
18 get into a fight at some time with her, and the fights would
19 sometimes start in the middle of the night, I would just
20 leave the office -- I would leave the house, rather, and I
21 would go to the office to get some sleep, get some rest
22 because she just wouldn't end the fights.

23 I'm not saying who was right and who was wrong on the
24 fights, because sometimes we each of us were wrong on the
25 fights. But, that started.

1 cmds

Wolk - direct

202

2 Then they kept continuing in such intensity at some
3 stage, at some stage it got to such a point that there were
4 police being called to the apartment. I was arrested once
5 in October of 1971. The police were at the apartment
6 numerous times.

7 I would try and stay out of the apartment to come home
8 at 1:00 o'clock in the morning and walk into the apartment
9 at that time on a Saturday night, and I would sleep in the
10 office on Saturday evening so I could come home late and not
11 get into a fight, and the fights would start and the cops
12 would come and my children would get up, and particularly the
13 older one and see the cops in the house at the particular
14 time.

15 I would come home at night during this period of time
16 and very often the door would be locked to the apartment.

17 THE COURT: Where was this apartment?

18 THE WITNESS: This apartment was in Manhattan,
19 at 401 East 65th Street.

20 At this time I was also sleeping for a good
21 part of the time, for about six or seven months before I
22 left, I had taken the mattress out of the bedroom, it was
23 a double bed with one headboard, and I had taken the mattress
24 and physically put it on the floor in the living room, and
25 I was trying to sleep there.

1 cmds

Wolk - direct

203

2 When I would get into fights with her I would
3 say, let me go in one room, you stay in another room. Where-
4 ever you want to be I will go some place else to end the
5 fight on this. But she would lock me out of the place, I
6 would have to go out into the street, about 12 blocks away
7 there's a building at 53rd Street, I knew the superintendent,
8 I would borrow the hacksaw to get back into the apartment.

9 I'd come back to the apartment, I called the
10 police, get some cops on the street to come upstairs with
11 me so I could physically get back into the apartment.

12 When the cops were there she would then let me
13 into the place. And I would bring the hacksaw downstairs
14 and the cops would wait until I could get back physically
15 into the apartment.

16 I had to remain during this period of time. I
17 had two small children that I had brought into this world.
18 She couldn't take care of them. She loved the children.
19 She just couldn't spend -- devote what she knew. She came
20 from a broken home herself. Her mother had walked out on
21 the family when she was in her early teens.

22 THE COURT: Relax now. Relax.

23 A (Continuing) She couldn't take care of the
24 children. I suppose -- I mean, I could have put up with
25 the fights.

cmds

Wolk - direct

204

1
2 THE COURT: All right, you have told us the
3 story of what happened. Don't tell us what you might have --

4 THE WITNESS: I couldn't leave the apartment,
5 and I had to stay there. I just couldn't walk out and say
6 to hell with everybody else, I'll pay money, here, you take
7 care of the kids. I couldn't. And I had to be around to
8 see what was happening.

9 I would get calls in the office from the school
10 where my older boy was going that he wasn't dressed, in
11 freezing weather. She would put him on a little light jacket
12 and she wouldn't even dress him at the time.

B27 13 Q All right now, Mr. Wolk.--

14 A There were some times she left --

15 Q Mr. Wolk, you say there were periods of time
16 when she left the children?

17 A Yes. There were times in November and December
18 of 1971 she went away by herself to Souther America for
19 13 days. She left the kids with me. I had a housekeeper
20 that was taking care, and she would come in in the morning,
21 I would come home at 5:00 o'clock at night to take care of
22 the children. She came back two weeks later, she would leave
23 again, she went down to Puerto Rico for a couple of days.

24 We would get into an argument, she would just leave.
25 They would call me that she was gone. I'd come home.

1 cmds

Wolk - direct

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2 I remember once I was with her and my older boy in
3 a restaurant, we got into an argument in the restaurant.
4 She left and she didn't come home for three days. I took my
5 son back to the house, I called the office and I was hoping
6 she would come back. There were times I had to be around,
7 I had to be with the children.

8 In the meantime, she said that she knew how to take
9 care of the children and what did I know about children.

10 Q Now, Mr. Wolk, there came a time when you were
11 separated from your wife?

12 A In February -- no, it was in -- we were going
13 through all the Family Court proceedings, and the lawyers,
14 and they were talking all that time. In July of 1972 I
15 couldn't take it any more. I moved out of the house and I
16 took the children with me and I moved up to Riverdale.

17 Q In July and August you were in Family Court also?

18 A Yes, afterwards we were in Family Court and then
19 they started to order psychiatric observation of the
20 children, of me.

21 THE COURT: We don't need all that detail.

22 Q Mr. Wolk, who got custody of the children?

23 A I received custody of the children.

24 MR. BATCHELDER: Objection, your Honor.

25 A The children have been living with me ever since.

1 cmds

Wolk - direct

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2 Q Was there a separation agreement entered into?

3 A Yes. A few months later I agreed to pay her
4 more than twice the amount that the Court said --5 THE COURT: Please, don't get into all that,
6 Mr. Wolk. When was the separation agreement signed?7 THE WITNESS: The separation agreement was signed
8 in September of 1972.

9 Q Did you get custody of the children?

10 A Yes, I did.

11 THE COURT: We have had that.

12 Q Have you been taking care of the children since
13 then?14 A Yes, I have been taking care of the children
15 since then. There were times -- there are times I had a
16 housekeeper in the apartment. There are times I didn't have
17 a housekeeper. They were unsatisfactory, so I would get rid
18 of them, get somebody else, they wouldn't show up. I'd have
19 to take -- if it was during the daytime, a school day, my
20 older boy could go to school and go to somebody else's
21 house in the afternoon. I would take my little son, who is
22 two years old, I would take him to the office, diaper him,
23 do whatever had to be done. There were times I didn't have
24 anybody, I stayed home.

25 Q During this period of time there has been

cmds

Wolk - direct

207

testimony by an employee of the Internal Revenue Service that you filed for extensions?

A Every year I filed for an extension.

Q Did you file your tax returns?

A. No, I did not.

Q Did you intend to file your tax returns?

A I always intended to file my tax returns. Every time I filed for an extension I intended to file it shortly thereafter if I could ever get myself straightened away.

Q Now I show you Defendant's Exhibit D marked for Identification and ask you to tell us whether or not that contains your signature (handing)?

A Yes. This was one of the original separation agreements that was signed, and a number of counterparts. That's my signature and my wife's signature.

MR.TODEL: At this time the defendant offers in evidence Defendant's Exhibit D --

THE COURT: No. Wait a minute. Come to the side bar.

(At the side bar.)

THE COURT: I don't know how many times I have to do this, but I am not going to receive this into evidence. What is this paragraph?

MR. TODEL: If I may show you, your Honor.

1 cmds

Wolk - direct

208

2 MR. BATCHELDER: The bit about the taxes. It's
3 after the fact. I want to see what it says --

4 MR. TODEL: It's not after the fact, Mr. Batchelder

5 MR. BATCHELDER: 1971, it's after the fact,
6 Mr. Todel.

7 THE COURT: Let me see it.

8 MR. TODEL: Yes, your Honor (handing). Sub-
9 division D.

10 THE COURT: The parties have filed joint federal,
11 state and New York City income tax returns, that's what it
12 says, as of August 9, 1972, which isn't true.

13 MR. TODEL: Read the next paragraph. The next
14 sub-paragraph.

15 THE COURT: "We have agreed to sign a joint
16 federal, New York State, New York City income tax for the
17 years not filed heretofore by the parties."

18 MR. BATCHELDER: I think the argument is going
19 to be that she won't do it, and he can't do it. Your Honor,
20 it doesn't go to willfulness at all. It's after the fact.
21 In fact --

22 THE COURT: Yes, I'm afraid I'm going to sustain
23 the objection to that.

24 MR. TODEL: If the Court please, it is not after
25 the fact.

1 cmds

Wolk - direct

209

2 THE COURT: Yes, it is. It is after the fact.
3 This started back in 1975.

4 MR.TODEL: If the Court pleases, one of the
5 counts of the indictment specifically deals --

6 THE COURT: I know, but I have ruled and you have
7 an exception.

8 (In open court.)

9 BY MR. TODEL:

10 Q Mr. Wolk, you stated a moment ago that you in-
11 tended to file your income tax returns; is that correct?

12 A Yes, I did.

13 Q Did you make this knowledge known at any time?

14 A Yes.

15 Q How did you make this knowledge known?

16 A Well, among other things, I filed for the exten-
17 sions, every time I filed for extensions -- every time I
18 filed for an extension I really was hoping that I would be
19 able to get to the work and get my records together. I had
20 no records during that period of time. I didn't even have
21 checks. I didn't have bank statements. I didn't know where
22 the hell anything was. I was just hanging on doing the best
23 I could for whatever I could do at the time.

24 I then --

25 Q In 1972 did you make it a matter of record?

1 cmds

Wolk - direct

210

2 A Yes, I did. In the negotiations with my wife
3 I knew I was going to have to file a tax ---

4 THE COURT: Wait a minute. That doesn't answer
5 the question really. I don't know what the question means,
6 did he make it a matter of record, Mr. Todel.

7 THE WITNESS: Yes. I even told my ---

8 THE COURT: No, no.

9 Q Did you sign any agreement with reference to that?

10 MR. BATCHELDER: Your Honor, objection, please.

11 THE COURT: Did he what?

12 MR. TODEL: Sign any agreement with reference
13 to filing of income tax returns.

14 THE COURT: When? Oh, no, this comes back to
15 the same thing. Oh, no, please. I sustain the objection.
16 Don't keep doing this.

17 Q Mr. Wolk, you recall yesterday that there was
18 testimony and evidence introduced with reference to deposits
19 which were made by you in a number of bank accounts. Do you
20 recall that?

21 A Yes, I do.

22 Q And the government introduced as Exhibit 35,
23 I show you for example, 1972 where it says that you had
24 deposits of \$87,813.21 in Bankers Trust and Manufacturers
25 Hanover. Do you recall that testimony?

1 cmds

Wolk - direct

216

2 during that year, and he was entitled to a certain amount
3 of the income for that year.

4 After that the books were in disarray. I would some-
5 times not even enter the checks. I would write a check, I
6 wouldn't enter it in the checkbook. I didn't reconcile the
7 bank statements when they would come in. I didn't have
8 records.

9 Subsequently, when I was dealing with Mr. Cappacio
10 and trying to get him the records so we could make up the
11 returns for that period of time, there were whole periods
12 of time I didn't have checks or bank statements. He was able
13 to get bank statements for me from the banks, but I didn't
14 have the checks.

15 Q There came a time in 1971 that you met a
16 Mr. Ray Meyers of the Internal Revenue Service?

17 A Yes, I did.

18 Q Do you recall about when it was in 1971, approxi-
19 mately?

20 A Yes, it was in the late fall of 1971.

21 Q Will you tell the Court and jury the conversation
22 you had with Mr. Meyers at that time?

23 A Well, at that time my problems at home were
24 really -- had really come to the violent stage at that period
25 of time. I told Ray Meyers specifically about the problems

1 cmbs

Wolk - cross

231

2 Q Mr. Wolk, I show you what has been marked as
3 Government's Exhibit 36 for Identification -- excuse me --
4 in Evidence, and I call your attention to the upper right-
5 hand corner (handing).

6 A Yes.

7 Q Does that indicate that you are supposed to put
8 your Social Security number in there?

9 A Yes, it does.

10 Q And you didn't know that until you saw that
11 this morning; is that right?

12 A Of course I knew that when I saw the form, but
13 I don't know, you know, what kind of number. I know a
14 number is required.

15 Q You just didn't --

16 A A number is required to be put on.

17 Q And you just may have picked any number to put
18 in there?

19 A I didn't pick any number. I believed when I
20 put that number down that I was writing my Social Security
21 number. I saw a letter from the government with a number
22 addressed to me, and I thought that that was my number.
23 I made a mistake.

24 Q Did you make that same mistake for three years
25 running?

1 cmds Wolk - cross 232

2 A Well, the next two years what I did was I looked

3 at the previous years, and I just copied the same number

4 down again.

5 Q And it never struck you that your Social Security

6 number was not the number that you were putting down?

7 A It has the right number of numbers. I mean, it's

8 not like a 15-digit number instead of a 9-digit number.

9 Q Just any old 7 or 8-digit number will do; is

10 that what you are --

11 A No, I believed that that was my number, but it

12 was a different type of number. I'm very sorry I made the

13 mistake.

14 Q It isn't a question of your being sorry. I'm

15 just asking you if you know your own Social Security number.

16 A Truthfully, I don't.

17 Q You don't. I believe Mr. Todel asked you about

18 your marital difficulties. Can you tell me, did your marital

19 difficulties commence in 1969?

20 A Oh, of course not.

21 Q They did not?

22 A No.

23 Q You had no marital difficulties in 1969; is that

24 right?

25 A I didn't say that. I said just the opposite.

1 cmds

2 shape, form or manner figure to get away with this? To get
3 away with this. Why would anybody in his right mind do
4 something when he knew he was going to get caught?

5 That's not what he's being charged with here.

6 And if he had any doubts about whether he would get away, I
7 submit to you, ladies and gentlemen, that applying your
8 common sense to April 15th as you make out your tax returns,
9 if you can say with a straight face that you did not know
10 that your Social Security number was to go in the upper right-
11 hand corner as your taxpayer identification number, and that
12 you don't know your Social Security number as you sit in
13 this box, I say there is a little piece of paper that a fair
14 number of us carry, and I submit to you also that we use
15 our Social Security number more than we would like to say we
16 do.

17 Mr. Wolk in those years lived like we did with
18 that one problem. Marital. It did not affect his business.
19 And if it did, it affected it in a way which was totally out
20 of common sense's realm. If your business is falling apart
21 because of marital discord, people do not come to you for
22 advice. People do not keep coming back to you. Your receipts
23 don't skyrocket, and the advice that you give had better be
24 correct. And it was. Competent lawyer.

25 He takes trips, he helps his wife, he goes to work

CHARGE

A-48

322

Honorable
Dudley B. Bonsal,
District
Judge

Charge of
the Court

cmds 1

United States of America,

-vs-

76 Cr. 314

Edmund Wolk.

New York, New York
July 9, 1976--10:00 a.m.

B44

(Trial resumed.)

(Jury enters courtroom.)

THE COURT: Good morning, ladies and gentlemen.
Thank you very much for your promptness in being here this morning.

Will you make the usual announcement, Mr. Wallace.

THE CLERK: The Court will now charge the jury.
Spectators may leave now or remain seated until the completion of the charge.

Would you lock the door, please, Mr. Marshal.

THE COURT: Mr. Foreman, as you are, Mr. Proto,
by virtue of occupying the first chair, and ladies and gentlemen of the jury.

First of all, I would like to join with the lawyers in thanking each of you for the care and attention that you have given during the course of this short trial, and to tell you that I appreciate the sacrifices I know that each of you has had to make in your own personal lives so

CHARGE

A-49

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1 cmds 2

2 that you could serve in this very important capacity of be-
3 ing a federal jury.

4 I am sure that you will bear with me and give
5 me the same attention you have shown throughout so that
6 you may understand the principles of law which apply to
7 this case.

8 Now, you remember I told you at the outset,
9 ladies and gentlemen, that it is your duty here to weigh the
10 evidence calmly and dispassionately, without any sympathy,
11 without any prejudice for or against either the government
12 or the defendant, Mr. Wolk.

13 If you felt there were any appeals to your
14 sympathy made during the course of this trial, please dispel
15 them, because your verdict must be completely unbiased and
16 fair.

17 I also told you at the outset that everyone
18 appearing before this bar of justice is entitled to a fair
19 and an impartial trial regardless of his occupation or his
20 station in life. And your verdict, ladies and gentlemen,
21 must be based solely on the testimony that you heard from
22 that witness chair and on the exhibits which were received
23 during the course of the trial, and on nothing else at all.

24 Then you recall when we started I also told you
25 it was my duty to instruct you as to the law that applies

CHARGE

A-50

324

1 cmds 3

2 here, that you are bound to accept my instructions.

3 On the other hand, you, the jury, are the judges
4 of the facts. It is your recollection of the facts that
5 controls. It is not what a lawyer says or what I say about
6 the facts, it is what you, the jury, remember and decide.

7 I also told you at the outset that during the
8 course of the trial I might have conversations with one or
9 the other of the lawyers, and, indeed, I did.

10 I told you then and I repeat now, pay no atten-
11 tion to these conversations. Above all, draw no inference
12 from anything I might have said during the trial that might
13 lead you to believe that I favor one side or the other.
14 Of course, I do not. It is not my prerogative, that is yours.

15 Now, throughout my charge, ladies and gentlemen,
16 I will instruct you that you may not convict the defendant
17 unless and until you are satisfied that the government has
18 proved each element comprising the crimes charged beyond a
19 reasonable doubt.

20 What do we mean by beyond a reasonable doubt?
21 Well, the words themselves, of course, give the answer. It
22 is a doubt based on reason. A doubt which a reasonable man
23 or woman might entertain. But a reasonable doubt is not a
24 fanciful doubt. It is not an imagined doubt. It is not a
25 doubt that a juror might conjure up in order to avoid per-

CHARGE

A-51

325

1 cmds 4

2 forming an unpleasant task.

3 It is a reasonable doubt. It is a doubt which
4 arises in a juror's mind because of something in the evidence
5 in the case, or the absence of evidence. It is the kind of
6 doubt which would cause a reasonable man or woman in a more
7 serious and important decision in his or her own life to hesi-
8 tate to act.

9 I repeat, the government here has the burden
10 of proving the guilt of the defendant beyond a reasonable
11 doubt. Now, the government need not prove the defendant's
12 guilt beyond all possible doubt. Certainly, if that were
13 the rule few people, however guilty they might be, would
14 ever be convicted.

15 In this world of ours it is practically impossible
16 for one to be absolutely and completely convinced of any
17 controverted fact which by its nature is not susceptible
18 to mathematical precision or to mathematical certainty.

19 So the law is that the government must prove
20 the guilt of a defendant beyond a reasonable doubt, but not
21 beyond all possible doubt.

22 When I review the information with you, ladies
23 and gentlemen, I will remind you, as I did at the outset,
24 that the information is merely the way the government brings
25 into court individuals who it claims have violated the law.

CHARGE

A-52

326

1 cms 5

2 I told you that the information is not evidence
3 of the guilt of the defendant. Nor does it detract in any
4 degree from the presumption of innocence which the law
5 surrounds this defendant with, until this guilt is proven
6 And this presumption of innocence remained with Mr. Wolk
7 throughout the trial, and this presumption applies to the
8 consideration of each of the essential elements of the
9 crimes charged.

10 This presumption of innocence remains with the
11 defendant unless and until you, the jury, are satisfied be-
12 yond a reasonable doubt of the defendant's guilt.

13 Now, the defendant here has entered a plea of
14 not guilty, and in doing so he has put in issue every material
15 allegation in the information. And, as I told you, the
16 government must prove them beyond a reasonable doubt. And
17 this burden has remained on the government throughout the
18 trial. If the government has not proved to you that the
19 defendant is guilty beyond a reasonable doubt, then,
20 course, you will find the defendant not guilty.

21 Now, this has been a short trial, ladies and
22 gentlemen, and this evidence was reviewed with you in con-
23 siderable detail yesterday by the lawyers for the government
24 and for the defendant. I am not going to review the evidence
25 again because, as I have told you, it is your recollection

CHARGE

A-53

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1 cmds 6

2 that controls and not what I say.

3 As I understand the contentions here, and they
4 are very simple indeed, the government is contending that
5 the defendant, Mr. Wolk, willfully -- you are going to hear
6 that a number of times -- willfully failed to file federal
7 income tax returns for the calendar years 1969, 1970, 1971
8 and 1972.

9 I think we heard in the evidence, and I think
10 we probably all know that we file tax returns on April 15th
11 of the year following the year. So, for example, the 1969
12 returns would be filed on April 15th, 1970.

13 The government here, as I understand it, is
14 contending on the evidence that the defendant had sufficient
15 gross income, I think \$1200 was the figure mentioned, people
16 who have income of \$1200 are expected to file a tax return.

17 The government contends that the defendant's gross
18 income was more than that in each of these years, and that
19 he was required to file a return for each of these years.
20 And that he willfully failed to file.

21 Of course, the defendant denies this. I don't
22 recall that there is any real dispute here, but you should
23 consider that, as to whether or not he did file returns for
24 these years.

25 But, the defendant denies that he willfully

B45

CHARGE

A-54

328

1 cmds 7

2 failed to file his tax returns. As I recall, the defendant
3 testified, and there were other witnesses to indicate, that
4 the defendant was having, starting, as I recall it, in
5 February, around February of 1970, was having marital problems
6 with his wife and family problems, and that he was emotional-
7 ly upset during this period.

8 I think there was also some evidence about his
9 records being in bad shape, I think was the expression. So
10 those are the contentions.

11 Now, the statute involved here is Section 7203
12 of Title 26 of the United States Code which provides in
13 relevant part, "Any person required to make a return" --
14 that is an income tax return -- "who willfully, willfully,
15 fails to make such return at the time or times required by
16 law," I think April 15th of the following year is the time
17 here, "is guilty of a crime."

18 Now, you might ask yourselves, ladies and gentle-
19 men, why did Congress make this a crime? Of course, the
20 answer to that is that our tax system is in the nature of an
21 honor system. We are all supposed to file our tax returns,
22 and we are supposed to pay our taxes. And if somebody
23 doesn't file a tax return so the government cannot collect
24 the tax that might be owed then, he is, in effect, passing
25 that burden on to other people.

CHARGE

A-55

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1 cmds 8

2 So the government has got to collect the money
3 somehow. We all read about that.

4 Passing a burden on to somebody else, getting out
5 of it themselves, violating what I have called the honor
6 system. And that is the reason the Congress takes a very
7 serious view of this, and the reason why the Congress in this
8 statute makes it a crime to willfully fail to file a
9 tax return.

10 Then, as to the information in this case, ladies
11 and gentlemen, and I remind you again that this information
12 not evidence but merely the way the government has brought
13 the defendant into court, the information charges Mr. Wolk
14 in four separate counts.

15 Now, you are to consider these counts separately.
16 The difference is the year. Count 1, 1969, Count 2, 1970,
17 Count 3, 1971, Count 4, 1972. There are four separate
18 counts and you must consider them separately.

19 I will read you the information, and I am going
20 to send a copy of it in to you in the jury room, reminding
21 you that it is not evidence, merely so you can keep track
22 of the years.

23 The information reads, "The United States
24 Attorney charges, 1, during the calendar years set forth
25 below, Counts 1 through 4, Edmund Wolk, the defendant, who

CHARGE

A-56

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1 cmds 9

2 was then a resident of and conducted business in the Southern
3 District of New York" -- on that I think all of the evidence
4 you remember, the apartments and offices were all in Man-
5 hattan, that is in the Southern District of New York -- "had
6 and received a gross income in the approximate amounts set
7 forth below." I will come to that in a minute.

8 "2. By reason of this income, Edmund Wolk, the
9 defendant, was required by law following the close of said
10 calendar years on or before April 15th of the following
11 calendar year, to file an income tax return with the Director
12 of Internal Revenue for the Internal Revenue District of
13 Manhattan or other proper officer of the United States stat-
14 ing specifically the items of his gross income and any
15 deductions and credits to which he was entitled.

16 "3. On or about February 15 of the years follow-
17 ing the calendar years set forth below in the Southern
18 District of New York, Edmund Wolk, the defendant, knowing
19 all the foregoing facts, unlawfully, willfully and knowingly
20 did fail to make said income tax returns to said Director
21 of Internal Revenue or any other proper officer of the United
22 States."

23 Then the counts are stated in here, Count 1,
24 calendar year 1969, approximate gross income \$37,620;
25 Count 2, calendar year 1970, approximate gross income

CHARGE

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1 cmds 10

2 \$44,578; Count 3, 1971, approximate gross income \$69,542.53;
3 Count 4, 1972, gross income \$63,512.27.

4 Now, as I recall the evidence, ladies and gentle-
5 men, these figures that appear here represent the amounts
6 that appeared on these unsigned returns, you remember, which
7 Agent Collazzo, I think it was, testified he received from
8 the defendant for these years.

9 I think they are in evidence as Exhibits 36 to
10 39. And, again, I remind you you are to consider each year
11 separately, ladies and gentlemen, and of course your verdict
12 on one of these counts, whatever it is, does not bind you
13 as to your verdict on the remaining counts.

14 Now, before you may convict the defendant on
15 any of these counts, ladies and gentlemen, the government
16 must prove, prove beyond a reasonable doubt, each of the
17 following elements:

18 1, that the defendant was a person required to
19 file a federal income tax return for the years in question.
20 In this case under separate counts 1969, 1970, 1971 and 1972.

21 I think I indicated to you the gross income must
22 be at least \$1200 under the law.

23 2, that the defendant failed to file a federal
24 income tax return for the year in question. Well, consider
25 the evidence on that, and as I recall the evidence, it is

CHARGE

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1 cmds 11

2 your recollection that controls, there was some evidence that
3 the defendant sought extensions, but I don't recall any
4 evidence that he actually did file the returns.

5 3, and this is the important element, the key
6 one, that the defendant acted willfully, knowingly and
7 unlawfully.

8 Now, as I mentioned to you under the first ele-
9 ment a person having a gross income in excess of \$1200 is
10 supposed to file a return. And, of course, gross income
11 does include compensation for services.

12 In the case of a lawyer it includes his legal
13 fees. And the government is contending here on the basis
14 of the witnesses and the exhibits that in each of these
15 four years the defendant's gross income was in excess of
16 \$1200.

17 Now, as to the second element as to whether
18 defendant failed to file an income tax return, again I don't
19 recall any particular dispute about that, but you must con-
20 sider the evidence.

21 The third element which is really the vital one
22 was the defendant, if you find he failed to file income
23 taxes, was he acting willfully, knowingly and unlawfully?
24 That is the crucial element for you to consider on the
25 evidence which you have heard.

CHARGE

A-59

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1 cmds 12

2 In other words, did the defendant have criminal
3 intent, willfully, to fail to file the return.

4 How do you determine that, ladies and gentlemen?
5 Well, of course an act, or really this is a failure to act, if
6 you don't file a return you are failing to act, I suppose,
7 but an act or failure to act is done knowingly and willfully
B46 8 if it is done voluntarily and purposefully. An act, or,
9 again, a failure to act, is done willfully, knowingly and un-
10 lawfully if it is a voluntary and intentional violation of
11 a known legal duty.

12 Well, here if the defendant knew he was required
13 to file a tax return by April 15th of the year in question
14 and intentionally failed to do so, then he would have will-
15 fully failed to file a tax return under the statute which
16 I reviewed with you.

17 On the other hand, ladies and gentlemen, an act
18 is not done willfully or knowingly or unlawfully if it is
19 done by mistake, if it is done by carelessness or if it
20 is done by other innocent reason.

21 Now, obviously it is impossible to prove exactly
22 what this defendant knew or what his intentions were in
23 and around April 15th of these years. We can't look into
24 his mind and see what knowledge he had at the time to
25 determine his specific intentions.

CHARGE

334

1 cmds 13

A-60

2 But these are matters which you, the jury, can
3 determine by a careful consideration of the facts and cir-
4 cumstances which were brought out during the trial.

5 The knowledge and intentions, the willfulness
6 of the defendant may only be understood when put in the
7 context of the circumstances surrounding his acts at the time
8 and the inferences which you, the jury, find may be reason-
9 ably drawn therefrom.

10 You might ask yourselves whether you felt that
11 the defendant's actions or lack of it here were normal or
12 abnormal, whether you think the background of the defendant
13 made it likely or unlikely that he fully understood what he
14 was doing.

15 Whether you think the defendant had a motive,
16 whether you think he had a financial or other interest in do-
17 ing or not doing what he did. These are the kinds of
18 questions and not the only ones, ladies and gentlemen, that
19 you should ask yourselves in order to determine the willful-
20 ness, the willfulness of the defendant. And I don't suggest
21 any answers to the questions, because, after all, in your
22 own daily affairs you are continually called upon to use your
23 common sense and experience to determine from the actions or
24 statements of others what their real intentions and purposes
25 are. And, please, do that with respect to this defendant.

CHARGE

1 cmds 14

A-61

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2 Now, the law recognizes two types of evidence,
3 ladies and gentlemen. Direct evidence and circumstantial
4 evidence. Direct evidence is testimony of a witness who
5 personally observed a transaction, or participated in the
6 activity he is describing.

7 Circumstantial evidence consists of circumstances
8 from which the jury may infer by process of reasoning cer-
9 tain facts which are sought to be established as true.

10 A classic example of circumstantial evidence is
11 if you go home to your apartment today and it should be rain-
12 ing, say it might be raining, and you walk in, somebody is
13 watching television in your apartment and they look at you
14 and they see that your hat and coat are wet. They say, gee,
15 it's raining. They haven't looked outside, they have looked
16 at you.

17 That is circumstantial evidence. They reason
18 that it is raining outside.

19 Of course there is circumstantial evidence in
20 this case. The checks for example, among other things. And
21 both direct evidence and circumstantial evidence are good
22 evidence, and no greater degree of certainty is required when
23 the evidence is circumstantial than when it is direct.

24 In either case, you, the jury, must be convinced
25 beyond a reasonable doubt of the guilt of the defendant.

CHARGE

1 cmds 15

A-62

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2 And, of course, different inferences may be drawn from the
3 evidence, whether it is direct or circumstantial.

4 The government would ask you to draw one set of
5 inferences, defendant will ask you to draw another, but it
6 is for you, the jury alone, to decide what inferences you
7 will draw from the evidence and what facts you find to have
8 been proven.

9 Ladies and gentlemen, you the jury, of course, are
10 the sole judges of the credibility of the several witnesses
11 who appeared before you. I know you gave careful attention
12 to their testimony as it was given, and you must subject all
13 the witnesses to the same standards, whether they were called
14 by the government or whether they were called by the defendant.
15 Whether they are government agents or not, the standards are
16 the same.

17 Of course, it is the quality of the evidence
18 rather than the quantity that is important. The evidence
19 which you, the jury, think represents a true picture of what
20 happened.

21 How do you determine the credibility of these
22 witnesses? Here again, ladies and gentlemen, please, use
23 your plain everyday common sense. You observed them on the
24 stand. How did they impress you? Did you think they were
25 testifying frankly, candidly and fairly?

1 cmds 16

A-63

2 So, apply your common sense and experience just
3 as you do in determining an important matter in your own
4 lives when you have to decide whether you have been given
5 the true picture of a given situation. I think you consider
6 the witness' demeanor, you take into account his age or back-
7 ground, occupation, business. Consider the witness' candor
8 or lack of it. A witness' possible bias. The accuracy of
9 his recollection. And you consider whether a witness' testi-
10 mony is supported or whether you think it is contradicted by
11 other credible testimony or circumstances.

12 You consider whether a witness has an interest
13 in the case.

14 Now, you heard from a number of Internal Revenue
15 people during the course of the trial. They have an interest,
16 of course. Their interest is to see that people are prose-
17 cuted who they think have violated the law. That is an
18 interest. It doesn't mean that any witness with an interest
19 is going to falsify or do anything like that. It is merely
20 a factor which you the jury might consider in considering the
21 credibilty of their testimony.

22 Here, Mr. Wolk took that stand yesterday. He
23 did so voluntarily. He didn't have to take the stand. As
24 I told you, the government must prove its case beyond a reason-
25 able doubt. Of course, he has a vital interest in this case,

CHARGE

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1 cmds 17

A-64

2 and his interest, of course, is a factor that you may consider
3 in determining his credibility.

4 But here again, you may conclude that despite
5 his vital interest that he was telling you the complete truth.
6 It is up to you.

7 The witness may be discredited or impeached by
8 contradictory evidence or by evidence that he made state-
9 ments inconsistent with his present testimony. If you think
10 any of these witnesses falsified to you, lied to you, you may di-
11 regard all their testimony if you want. Or, if you find
12 that part of the witness' testimony is reliable, you can
13 accept part of it and you can discard the rest.

14 Now, you will recall, ladies and gentlemen, that
15 the government, and I received in evidence a chart, you
16 remember that chart, with reference to the amounts deposited
17 by the defendant, business accounts in Manufacturers Hanover
18 Trust Company for the years 1969, 1970 and 1971, and the
19 Manufacturers Hanover Trust Company, and Bankers Trust Company
20 for the year 1972.

21 I think that chart was Exhibit 35. It was a large
22 thing, the one we put out here yesterday.

23 Now, this chart, of course, is not evidence,
24 ladies and gentlemen. It is merely a visual aid to you.
25 The evidence is the bank statements themselves which, as I

CHARGE

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1 cmds 18

A-65

2 recall it, were Exhibits 26 through 30. It is for you to
3 decide whether you think the chart correctly presents the
4 data set forth in these exhibits. And you give no greater
5 consideration to the chart than you would give to the
6 exhibits themselves.

B47 7 With this in mind, you may consider the chart
8 if you find that it accurately summarizes for you the evidence
9 and the exhibits to which it pertained. It helps you in
10 analyzing and understanding the evidence.

11 Now, you have the right to see any of these
12 exhibits if you want to see them. Just let me know by telling
13 the marshal, and as you deliberate, ladies and gentlemen,
14 remember that a jury deliberation is one in which everyone
15 participates. Everyone expresses their views, exchanges
16 views. Don't be afraid to change your original view because
17 of pride of opinion or stubbornness or any other reason
18 should you become convinced after talking to your fellow
19 jurors that your original view was wrong.

20 But, on the other hand, ladies and gentlemen,
21 never surrender your honest conviction, never surrender that,
22 whether you are outvoted or for any other reason at all.
23 Never surrender your honest opinion.

24 Now, you are to reach a verdict here, provided
25 you can do so consistently with a conscientious conviction

CHARGE

1 cmds 19

A-66

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2 of all twelve of you. As the lawyers have said, it is very
3 important both to the government and to the defendant that
4 this case be decided by you. And this being a criminal case
5 your verdict must be unanimous. Your verdict representing
6 the conscientious conviction of all twelve.

7 If after reviewing all of the evidence, ladies
8 and gentlemen, you find the defendant not guilty, don't
9 hesitate for any reason to render a verdict of not guilty.

10 But, on the other hand, if you find that in
11 accordance with these instructions defendant willfully failed
12 to file tax returns in these years or any of them, you must
13 not hesitate to render a verdict of guilty because of sympathy
14 or any other reason at all.

15 Please do not consider the question of possible
16 punishment should you find the defendant guilty. This is no
17 concern of yours and must not enter into your deliberations
18 in any way. You must not allow consideration of possible
19 punishment to affect you.

20 Finally, ladies and gentlemen, I am sure if you
21 listen to the views of your fellow jurors and if you apply
22 your common sense, you will reach a fair verdict in this case.
23 And, remember, and I remind you again, that that verdict must
24 be rendered without fear, without favor, without prejudice
25 and without sympathy.

CHARGE

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1 cmds 20

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2 All right, will counsel come forward, please.

3 (At the side bar.)

4 MR. TODEL: If the Court pleases, the defendant
5 takes exception to your Honor's charge with reference to your
6 description of the honor system. More specifically, your
7 Honor, to the words that your Honor used, "One of the reasons
8 for this system, and, if it isn't upheld." I am saying it
9 in substance. Then it passes on the burden to the others.

10 THE COURT: You have an exception. All right.

11 MR. TODEL: And in the last part of your charge,
12 your Honor, either you dropped your voice or I didn't hear
13 correctly, where you said, if you find the defendant guilty
14 beyond a reasonable doubt that he failed to file his --

15 THE COURT: Willfully failed.

16 MR. TODEL: I don't know if it came out that way.

17 MR. BATCHELDER: Willfully failed.

18 THE COURT: That is what I said.

19 MR. TODEL: What I meant was, your Honor, I know
20 you said willfully failed to file, but I don't know if you
21 said tax returns.

22 THE COURT: I did. I did say that.

23 MR. TODEL: All right. And, finally, your Honor,
24 not finally, there are two others, I take exception, or, the
25 defendant takes exception to your Honor's charge with reference

CHARGE

A-68

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1 cmds 21

2 to willfulness in that your Honor did not charge specifically
3 what I requested.

4 THE COURT: All right. You have an exception.

5 MR. TODEL: Namely specifically that the defendant
6 possessed a state of mind which manifested a bad purpose or
7 evil motive to disobey or disregard --

8 THE COURT: You didn't want that yesterday.

9 MR. TODEL: No, your Honor --

10 THE COURT: Oh, well, all right. You have got
11 an exception.

12 MR. TODEL: When your Honor read that charge that
13 was just not a very complete -- on that particular --

14 THE COURT: All right, you have an exception.

15 MR. BATCHELDER: I opposed that, your Honor.

16 MR. TODEL: Your Honor, Mr. Batchelder --

17 THE COURT: All right. Well, let's not waste
18 more time. You have an exception.

19 MR. TODEL: Finally, your Honor, I renew my re-
20 quest with reference to the charge, namely, the distinction
21 between civil and criminal tax liability. The mere fact that
22 since during the course of this trial --

23 THE COURT: You have made that request several
24 times, and I think you explained it to them several times,
25 and I even said I would charge them as to the amounts and

CHARGE

A-69

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1 cmds 22

2 you said, don't do that.

3 MR.TODEL: No, not to the amounts. Not to the
4 amounts, your Honor.

5 THE COURT: All right. Thank you, gentlemen.

6 (In open court.)

7 THE COURT: Mr.Rosen and Mr. Pope, as alternates
8 it is my pleasure now to excuse you because, you see, your
9 fellow jurors have not gotten the flu or anything else, and
10 they are ready to retire and I want to thank you both very
11 much and I want to tell you how grateful I am that you served
12 with us, because if anything had happened to any of your
13 brothers and sisters we needed you very badly, and I would
14 like to wish both of you luck in the future.

15 (Alternate jurors discharged.)

16 THE COURT: Mr. Wallace, would you swear the
17 marshal.

18 (Marshal sworn by the clerk.)

19 THE COURT: All right, ladies and gentlemen, I
20 am going to send in, this is a copy of the information, and
21 I remind you that it is not evidence, it is merely so that
22 you can keep track of these four counts, and your verdict
23 with respect to each of the four counts will be either guilty
24 or not guilty.

25 All right. You may now retire and thank you

1 bbbbr

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2 son who filed for extensions. Here is a person who in
3 1971 told an Internal Revenue Service agent about this.

4 I am taking all these factors, the fact that he
5 does have two infant children whom he is taking care of,
6 something which I know is difficult for your Honor to de-
7 termine what to be done, but on behalf of the defendant I
8 ask your Honor to be as merciful as possible under the
9 circumstances of this case.

10 THE COURT: Thank you, Mr. Todel.

11 Mr. Wolk, is there anything you would like to
12 say to me, any facts you would like to bring to my attention
13 before sentence is imposed on you?

14 THE DEFENDANT: No, your Honor.

15 THE COURT: I mentioned, Mr. Wolk, really
16 the thing that bothers me is that you are an attorney at
17 law, and I have always felt very strongly that the legal
18 profession are the ones that really should set the example
19 in questions of taxes and that kind of thing, and here you
20 failed to file a tax return for each of four years, and
21 although I am actually sympathetic with your marital problems,
22 it doesn't seem to me that that answers it at all.

23 Other lawyers have marital problems. Other
24 people have marital problems, but that is no excuse for not
25 filing your tax returns and paying your tax when it is

1 bbbbr

2 due.

3 I also seem to remember in the trial that
4 in addition to law school you received some kind of degree
5 or something at New York University.

6 THE DEFENDANT: It was a specialization in
7 tax in 1959. I never practiced that.

8 THE COURT: I know. You took that course.

9 I remember that during the trial. I take
10 a very serious view of this, Mr. Wolk. Having once been
11 a Bar Association president myself, I guess I feel more
12 strongly about these things.

13 The thing that I have to consider also are
14 these children. I understand they are 10 and 6?

15 THE DEFENDANT: Yes.

16 THE COURT: 10 and 6. And they are living
17 with you?

18 THE DEFENDANT: Yes. They have been living
19 for the last four years.

20 THE COURT: And your wife I take it is not
21 living with you. That's all over.

22 THE DEFENDANT: Yes.

23 THE COURT: That's really the thing that I feel
24 that regardless of what I think of your conduct which I
25 have a great deal of trouble condoning or justifying,

JUDGMENT OF CONVICTION

A-72

United States of America vs.

United States District Court for

Edmund Wolk

Southern District of New York

DEFENDANT

DOCKET NO.

76 Cr. 314

JUDGMENT AND PROBATION/COMMITMENT ORDER

In the presence of the attorney for the government
the defendant appeared in person on this date

MONTH DAY YEAR
August 30, 1976

☐ WITHOUT COUNSEL

However the court advised defendant of right to counsel and asked whether defendant desired to have counsel appointed by the court and the defendant thereupon waived assistance of counsel.

☒ WITH COUNSEL

Mr. Mortimer Todel

(Name of counsel)

☐ GUILTY, and the court being satisfied that
there is a factual basis for the plea,

☐ NOLO CONTENDERE,

☒ NOT GUILTY

There being a ~~verdict~~/verdict of

☐ NOT GUILTY. Defendant is discharged
☒ GUILTY.

CHARGE
MENT

Defendant has been convicted as charged of the offense(s) of **unlawfully, wilfully and knowingly failing to make income tax returns to District Director of Internal Revenue or any other proper officer of the U.S.. (Title 18, U.S. Code, Section 7203.)**

The court asked whether defendant had anything to say why judgment should not be pronounced. Because no sufficient cause to the contrary was shown, or appeared to the court, the court adjudged the defendant guilty as charged and convicted and ordered that: The defendant is hereby committed to the custody of the Attorney General or his authorized representative for imprisonment for a period of

SENTENCE
OR
PROBATION
ORDER

Counts 1, 2, 3, and 4. One year (1) each count to run concurrently. Execution of sentence suspended; probation two (2) years. Fine \$2,000.00 each count 1, 2, 3, and 4. Total fine \$8,000.00 non-committed. Given six (6) months to pay fine.

SPECIAL
CONDITIONS
OF
PROBATION

ADDITIONAL
CONDITIONS
OF
PROBATION

In addition to the special conditions of probation imposed above, it is hereby ordered that the general conditions of probation set out on the reverse side of this judgment be imposed. The Court may change the conditions of probation, reduce or extend the period of probation, and at any time during the probation period or within a maximum probation period of five years permitted by law, may issue a warrant and revoke probation for a violation occurring during the probation period.

STATE OF NEW YORK)
COUNTY OF NEW YORK) ss.:

SCOTT ALVINO, being duly sworn,
deposes and says that deponent is not a party to the action,
is over 18 years of age and resides at 5701 15th AVE
BROOKLYN, N.Y.

That on the 8 day of DECEMBER, 1976,
deponent personally served the within APPENDIX

upon the attorneys designated below who represent the
indicated parties in this action and at the addresses below
stated which are those that have been designated by said
attorneys for that purpose.

By leaving 1 true copies of same with a duly
authorized person at their designated office.

~~By depositing~~ true copies of same enclosed
in a postpaid properly addressed wrapper, in the post office
or official depository under the exclusive care and custody
of the United States post office department within the State
of New York.

Names of attorneys served, together with the names
of the clients represented and the attorneys' designated
addresses.

ROBERT B. FISKE, JR.
UNITED STATES ATTORNEY
ATTORNEY FOR PLAINTIFF-APPELLEE
ONE ST. ANDREWS PLAZA
NEW YORK, N.Y. 10007

Sworn to before me this

8 day of December, 1976

Scott Alvino

Michael DeSantis
MICHAEL DeSANTIS
Notary Public, State of New York
No. 03-0930908
Qualified in Bronx County
Commission Expires March 30, 1977